

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000 14TH STREET, N.W., SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF)	
)	DATE: April 5, 2005
Rayseen Woodland)	
Candidate)	
Advisory Neighborhood Commissioner for)	
Advisory Neighborhood Commission)		
5B04)	
1024 Girard Street, N.E.)	DOCKET NO.: Investigation 05-01
Washington, D.C. 20017)	

ORDER

Statement of the Case

On January 14, 2005, the Office of Campaign Finance (OCF) issued to Rayseen Woodland (respondent), candidate for Advisory Neighborhood Commissioner (ANC) for Advisory Neighborhood Commission 5B04, an order to appear before the Director and to show cause why she should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974 (the Act), D.C. Official Code §§1-1101.01 et seq. (2001 Edition).

Specifically, it was alleged in a December 15, 2004 complaint filed by Regina James, ANC for 5B03, that the respondent used Noyes Elementary School, located at 10th and Franklin Streets, N.E., in Washington D.C., as a holding and distribution area for campaign literature during her successful campaign for ANC seat 5B04 in the General Election on November 2, 2004, in violation of D.C. Official Code §1-1106.51(a). According to Ms. James, the respondent's campaign materials were found on September 16 and 23, 2004 in the Welcome Center/Administrative Office of the school. Ms. James also alleged that, during the campaign, the respondent distributed pieces of literature which lacked the requisite disclaimers, in violation of D.C. Official Code §1-1102.10. Finally, Ms. James alleged that the respondent's Summary Financial Statement of Candidate for the Office of Member of an Advisory Neighborhood Commission (ANC Summary Financial Statement), received by OCF on December 1, 2004, pursuant to 3 D.C.M.R. §§3002.5 and 3008.14 (1998, as amended), is inaccurate, because Ms. James believed that respondent spent more than she reported for the amount of literature and advertisements distributed on respondent's behalf during the campaign.

Issues

1. Whether respondent violated D.C. Official Code §1-1106.51(a) when she allegedly used government resources for campaign related activities by employing Noyes Elementary School in Washington D.C., as a holding and distribution area for her campaign literature during her successful campaign for ANC seat 5B04 in the General Election on November 2, 2004.
2. Whether respondent violated D.C. Official Code §1-1102.01(e) when she allegedly distributed campaign literature that failed to include the required notice: “A copy of our report is filed with the Director of Campaign Finance of the District of Columbia Board of Elections and Ethics.”
3. Whether respondent violated D.C. Official Code §1-1102.10 when she allegedly distributed campaign literature that failed to include the required “words ‘paid for by’ followed by the name and address of the payer or committee or other person and its treasurer on whose behalf the material appears.”
4. Whether respondent violated 3 D.C.M.R. §3008.14 by allegedly submitting an inaccurate ANC Summary Financial Statement.

Background

Pursuant to the issuance of the Order to Show Cause, on January 25, 2005, respondent appeared at a scheduled hearing pro se. She was accompanied by Commissioners Rebecca Scates of ANC 5B02, Joan Black ANC 5B09 and William Shelton, former chairman of ANC 5B01. The scope of the OCF investigation encompassed reviewing documents, verifying and evaluating testimony and in person interviews with Noyes Elementary School Principal, Wayne Ryan, and Instructional Facilitator, Mary Moss. The investigation ended on March 15, 2005.

Relevant Statutory and Regulatory Provisions

D.C. Official Code §1-1102.01(e) states:

Each political committee and candidate shall include on the face or front page of all literature and advertisement soliciting funds the following notice: “A copy of our report is filed with the Director of Campaign Finance of the District of Columbia Board of Elections and Ethics.”

D.C. Official Code § 1-1102.10 states, in pertinent part:

All newspaper or magazine advertising, posters, circulars, billboards, handbills, bumper stickers, sample ballots...and other matter with reference to or intended for the support or defeat of a candidate or group of candidates for nomination or election to any public office ... shall be identified by words “paid for by” followed by the name and address of the payer or the committee or other person and its treasurer on whose behalf the material appear.

D.C. Official Code §1-1103.05(b)(3) provides that “the Board may issue a schedule of fines for violations of [the Act], which may be imposed ministerially by the Director [of the Office of Campaign Finance].”

D.C. Official Code §1-1106.51(a) states, in pertinent part:

(a) No resources of the District of Columbia government, including, the expenditure of funds, the personal services of employees during their hours of work, and nonpersonal services, including supplies, materials, equipment, office space, facilities, telephones and other utilities, shall be used to support or oppose any candidate for elected office, whether partisan or nonpartisan[.]

Pursuant to 3 D.C.M.R. §3008.14, in pertinent part:

The ANC Summary Financial Statement filed by an ANC candidate. . shall include the following: (a) Total campaign receipts and expenditures relative to an election[.]

Pursuant to 3 DCMR §3709.1:

The Director may institute or conduct an informal hearing on alleged violations of the reporting and disclosure requirements, prescribed by the Act and Chapter 30 – 37 of this title.

Pursuant to 3 DCMR §3711.1, in pertinent part:

Upon a determination... that a violation has occurred, the Director may ministerially impose fines upon the offending party[.]

Pursuant to 3 DCMR §3711.2, in pertinent part:

Fines shall be imposed as follows [--]

- | | | |
|------|---|------------------|
| (n) | Failure to place notices required by the Act on campaign literature | \$500 |
| (dd) | Failure to disclose required information on reports and statements | \$50 per day [.] |

For good cause shown pursuant to 3DCMR §3711.6, the Director of Campaign Finance may modify, rescind, dismiss or suspend any fine.

Summary of Evidence

In support of her allegations that respondent violated the Act and applicable regulations, Ms. James submitted the following: estimates from Kinko’s and Staples for printing costs of 100, 250 and 500 copies of postcards and placards similar to the respondent’s campaign literature; estimates from Rhode Island Avenue Printing and Graphics, and Kinko’s for 500 and 100 posters, respectively, for posters

a green and white Re-Elect Rayseen Woodland poster which did not include the requisite disclaimer; a November 5, 2004 letter from Marvin Tucker wherein he alleged that the respondent used a D.C. government building (Noyes School) to promote her campaign; and snapshots of Noyes School dated November 30, 2004, in which the school and grounds are pictured (Complainant's Exhibit).

The January 25, 2005 hearing was conducted by William O. SanFord, OCF Senior Staff Attorney. In response to his queries, the respondent averred that she neither placed any campaign literature nor authorized anyone to place campaign literature inside Noyes Elementary School; and, respondent emphatically denied the allegation that she used the school as a holding and distribution area for her campaign materials.

Respondent asserted that she only circulated approximately 6 posters and 5 handbills which did not include the requisite disclaimers when she realized the information was not included in her campaign literature. Whereupon, according to the respondent, she attempted to "retrieve as much of the literature as she could locate" and she appended the requisite disclaimers to all that she found. Respondent apologized that, unfortunately, she was unable to retrieve all of the literature. Respondent provided a revised "Re-Elect Rayseen Woodland" poster reflecting an appended disclaimer (Respondent's Exhibit No. 1). Respondent further averred that she produced much of her campaign literature on her personal computer, well below the costs of those charged by area retailers, and attested thereto in the ANC Summary Financial Statement submitted to OCF.

After several attempts to meet with certain staff of Noyes Elementary School, on March 10, 2005, Attorney SanFord interviewed Principal Ryan and Instructional Facilitator Moss at the Noyes School. Ms. Moss stated no one affiliated with the school engaged in the promotion of any political campaign nor did the administration at the school allow the facilities to be used as a distribution center for such. She shared that the school maintained a "Parent Resource Center" in which information of general interest to the community is available to all. However, Ms. Moss emphasized that, under no circumstances were the administrative offices used to promote the candidacy of Ms. Woodland or any other candidate.

Mr. Ryan confirmed that he wrote and signed the letter dated January 21, 2005 (Respondent's Exhibit No. 2) wherein he denied that the school had been used as a distribution center for Ms. Woodland's literature. He pointed out that, in accordance with a general directive from the Superintendent of the District of Columbia Public Schools, Noyes Elementary School joins all other District of Columbia public schools in maintaining a "Parent Resource Center." According to Mr. Ryan, the Parent Resource Center was established to encourage parental involvement in school and community affairs. He further stated that he never observed nor authorized the use of the school's administrative offices as a holding or distribution center for campaign literature for the respondent or any other candidate. However, Mr. Ryan noted that literature designed to encourage voting included information regarding all candidates for the 2004 Presidential Campaign and local elections was available in the Parent Resource Center.

He added that, on past occasions, literature for candidates such as Vincent Orange, Harry Thomas, Jr. and Tommy Wells had been available and was restricted to the Parent Resource Center. Mr. Ryan asserted that if any of the respondent's campaign literature was on the premises it too would have been restricted to the Parent Resource Center.

The records of the Board of Elections and Ethics and the Office of Campaign Finance revealed that respondent, an incumbent, had previously campaigned for the office of ANC for 5B04 and no allegations of wrongdoing had surfaced. Moreover, throughout her 2004 political campaign, respondent telephoned and e-mailed the Office of Campaign Finance, specifically the undersigned, on numerous occasions seeking guidance as to how to properly conduct her campaign.

Findings of Fact

Having reviewed the allegations and OCF records, I find:

1. Respondent was a successful candidate for the office of Advisory Neighborhood Commissioner for 5B04 in the November 2002 election.
2. Respondent was also a successful candidate for the office of Advisory Neighborhood Commissioner for 5B04 in the November 2004 election.
3. In support of her 2004 candidacy, the respondent personally composed and printed campaign literature and also authorized the production of posters therefor.
4. Among other places, respondent's campaign literature was found in the Noyes Elementary School Parent Resource Center with campaign literature from other candidates for political office.
5. Respondent spent \$202.70 on her political campaign and disclosed this amount on her ANC Summary Financial Statement filed on December 1, 2004.
6. Respondent admitted that she failed to include the necessary identifying disclaimer language on her campaign literature and posters, early in her campaign; and, upon being notified thereof, the respondent corrected and amended same to include the necessary identifying disclaimer language.
7. Respondent does not have any prior history of violations with OCF.

Conclusions of Law

Based upon the record and evidence herein, I therefore conclude:

1. Respondent violated D.C. Official Code §§1-1102.01(e) and 1-1102 .10 because she distributed campaign literature that did not include the requisite disclaimers.

2. Respondent did not violate 3 D.C.M.R. §3008.12(a) by failing to submit an accurate ANC Summary Financial Report which listed her expenses of \$202.70 for campaign literature and posters because she used her own personal computer to print most of her campaign literature.
3. Respondent did not violate D.C. Official Code §1-1106.51(a) because her campaign literature was among that of many placed in the Noyes Elementary School to advise parents and the community of the qualifications of all candidates for office during the 2004 election cycles.
4. The penalty established at 3 D.C.M.R. 3711.2(n) for failure to place the required language on her campaign literature as provided by the Act is a fine of \$500 for each type of notice.
5. In accordance with D.C. Official Code §1-1103.05(b)(3), respondent may be fined a maximum of \$1000 for failure to place the required language on her campaign literature.
6. For good cause shown pursuant to 3 D.C.M.R. 3711.6, the Director of Campaign Finance may modify, rescind, dismiss or suspend any fine.
7. Respondent's explanation for failing to place required notices required by the Act on campaign literature, that upon realizing her omission, early in her campaign, to include the required notices on her campaign literature and posters she corrected and amended same, was deemed credible and constitutes good cause for suspension of any fine, in light of the fact that she does not have any prior history of violations with OCF.

Recommendation

In view of the foregoing, I hereby recommend that the Director suspend the fine of \$1000 that could be imposed against respondent for failing to place the require notices on campaign literature, in violation of D.C. Official Code §§1-1102.01(e) and 1-1102 .10.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that the fine in this matter be hereby suspended.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order by mail today.

Anwar Wilson
Clerk

NOTICE

Pursuant to 3 D.C.M.R. §3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 433, 2000 14th Street, N.W., Washington, D.C., 20009.